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12 **UNITED STATES DISTRICT COURT**

13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14

15 LEILANI JIMENEZ, individually, and as) Case No.: C 13-4620 CRB
16 successor-in-interest for Decedent DENNIS)
17 JIMENEZ; J.J., a minor, by and through his) **PETITION APPOINTING**
18 guardian ad litem Leilani Jimenez; D.J., a) **GUARDIAN AD LITEM AND**
19 minor, by and through her guardian ad litem) **APPROVING MINOR'S**
20 Leilani Jimenez, and DENNIS JIMENEZ, Jr.) **COMPROMISE**
21 an individual; DENISE GAINES, an)
22 individual; and ANITA JIMENEZ, an)
23 individual,) No hearing date Set
24) Hon. Charles R. Breyer
25 Plaintiffs,)
26 v.)
27)
28 COUNTY OF ALAMEDA, a municipal) **PUBLIC VERSION**
29 corporation, ERIK HOLM, individually and in)
30 his official capacity as a deputy sheriff for the)
31 COUNTY OF ALAMEDA, DEREK)
32 FRELIGH, individually and in his official)
33 capacity as a deputy sheriff for the COUNTY)
34 OF ALAMEDA; J. CESENA, individually)
35 and in his official capacity as a deputy sheriff)
36 for the COUNTY OF ALAMDEA; and DOES)
37 4-50, individually, inclusive;)
38)
39 Defendants.)

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1 Petitioner LEILANI JIMENEZ respectfully represents:

2 1. Petitioner LEILANI JIMINEZ is the natural mother of minor
3 plaintiff **REDACTED**** (Minor Plaintiff “D.J.”). Minor Plaintiff D.J. was
4 born on **REDACTED** and is presently ** years old. Petitioner is also the
5 natural mother of Plaintiff Joshua Jimenez (identified in the instant matter as
6 “Minor Plaintiff J.J.”), who was born **REDACTED** and has now reached the
7 age of majority, 18 years old.

8 2. Minor Plaintiff D.J. has causes of action for Violation of the 14th
9 Amendment and negligence as to the wrongful death of her father, Decedent
10 Dennis Jimenez, and as co-successor in interest to Decedent Dennis Jimenez,
11 against the named defendants herein on which a lawsuit was brought in this
12 court. The remaining Plaintiffs are Decedent’s wife and four adult children,
13 including Joshua, who turned 18 years old during the pendency of this action,
14 and who does not require a minor’s compromise petition or appointment of
15 guardian ad litem. All parties have the same causes of action.

16 3. Plaintiffs’ causes of action arise out an incident that occurred on
17 September 1, 2012, in which Decedent DENNIS JIMENEZ died in Santa Rita Jail
18 while purportedly on suicide watch.

19 4. No previous petition for appointment of Guardian Ad Litem of
20 Minor Plaintiff D.J. has been filed in this matter.

21 5. Petitioner, Leilani Jimenez is willing to serve as the minor’s
22 Guardian Ad Litem and is fully competent to understand and protect the rights of
23 the minor, and has no interest adverse to that of the minor.

24 6. Petitioner, Leilani Jimenez requests that she be appointed Guardian
25 Ad Litem for her daughter Minor Plaintiff D.J., as denoted above, to prosecute
26 the above-described causes of action on her behalf as denoted above, and for
27 such other relief as the Court may deem just and proper.

1 7. The parties in this case have reached a settlement in this matter.
2 The total settlement of the case is in the amount of \$275,000, including all costs
3 and attorneys' fees. The parties have agreed on apportionment of the settlement.
4 Of the total gross settlement amount, 50% of it shall be split equally between
5 Minor Plaintiff D.J. and Plaintiff Joshua Jimenez, while the remaining four adult
6 plaintiffs shall share the remaining 50% of the gross settlement. Minor Plaintiff
7 D.J.'s gross settlement shall be \$68,750 (25% of the total settlement).

8 a. Attorney fees for Minor Plaintiff D.J. shall be at 25% each of
9 her total gross recovery, in the amount of \$17,187.50, pursuant to the
10 contingency fee agreement in this case.

11 b. Proportionate with Minor Plaintiff D.J.'s share of the
12 \$275,000.00 recovery, Minor Plaintiff shall bear 25% of the total
13 \$21,399.36 in litigation costs incurred by his counsel in this action for a
14 total amount \$5,349.84.

15 c. Minor Plaintiff D.J.'s net settlement is in the amount of
16 \$46,212.66.

17 d. Minor Plaintiff D.J.'s net settlement in the amount of
18 \$46,212.66 shall be placed in an FDIC insured court-blocked account, with
19 distributions made annually on Minor Plaintiff D.J.'s birthday in the amount of
20 \$100, with the first such distribution being made in 2017. No other withdrawals
21 of principal or interest shall be made from the blocked account without a written order
22 under this case name and number, signed by a judge, and bearing the seal of this court,
23 until the minor attains the age of 18 years. When the minor attains the age of 18 years, the
24 depository, without further order of this Court, is authorized and directed to pay by check
25 or draft directly to the former minor, upon proper demand, all moneys including interest
deposited under this order. The money on deposit is not subject to escheat.

26 8. This petition was prepared by the Law Offices of John L. Burris,
27 the lead counsel representing plaintiff in this action. Benjamin Nisenbaum, Esq.

of Law Offices of John L. Burris also represents plaintiff and is in agreement with the terms of this Petition. John L. Burris, Esq. and Benjamin Nisenbaum, Esq. hereby represent to the Court that they became involved in this case at the request of plaintiffs, and have not received, and do not expect to receive any compensation for their services in connection with this action from any person other than the parties whom they represent in this action.

9. Petitioner Leilani Jimenez and her counsel have made a careful and diligent inquiry and investigation to ascertain the facts relating to the subject incidents, the responsibility therefore, and the nature and extent of injury to the minor plaintiff, and fully understand that if the compromise herein proposed is approved by the Court and is consummated, said minor plaintiff will be forever barred and prevented from seeking any further recovery of compensation as against all Defendants in this action, even if said minor's losses and injuries might in the future prove to be more serious than they are now thought to be.

10. Petitioner recommends this compromise settlement to the Court as being fair, reasonable, and in the best interests of said minor plaintiff.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 10, 2016

/s/*Benjamin Nisenbaum*
Benjamin Nisenbaum
Attorney for Plaintiffs
LEILANI JIMENEZ, et al.

ORDER

Plaintiffs Petition to Appoint LEILANI JIMENEZ as the guardian ad litem of her daughter, Minor D.J., in the instant matter is hereby Granted.

The Court hereby approves the minor's compromise according to the terms set forth in the instant petition to approve the minor's compromise.

Minor Plaintiff D.J.'s net settlement in the amount of \$46,212.66 shall be placed in an FDIC insured court-blocked account, with distributions in the amount of \$100 made annually on Minor Plaintiff D.J.'s birthday, with the first such distribution being made in 2017. No other withdrawals of principal or interest shall be made from the blocked account without a written order under this case name and number, signed by a judge, and bearing the seal of this court, until the minor attains the age of 18 years. When the minor attains the age of 18 years, the depository, without further order of this Court, is authorized and directed to pay by check or draft directly to the former minor, upon proper demand, all moneys including interest deposited under this order. The money on deposit is not subject to escheat.

IT IS SO ORDERED.

Dated: 11/21/2016

HONORABLE CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE